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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GO SMiLE, INC., a Delaware corporation, Plaintiff, vs. DR. JONATHAN B. LEVINE, D.M.D. P.C., a New York Corporation; and DR. JONATHAN B. LEVINE, an individual; Defendants.	)	Case No. 10 CIV 8663 (PKC)

ORDER TO SHOW CAUSE

Upon the previously filed Declaration of Wendi E. Sloane, dated December 20, 2010, and the exhibits annexed thereto; the previously filed Declaration of Leslie Faust, dated December 20, 2010, and the exhibits annexed thereto; the previously filed Declaration of Wendi E. Sloane, dated January 7, 2011, and the exhibits annexed thereto; the previously filed Declaration of Leslie Faust, dated January 7, 2011, and the exhibits annexed thereto; the previously filed Declaration of Erin Nicoletti, dated January 7, 2011, and the exhibits annexed thereto; the annexed Declaration of Wendi E. Sloane, dated January 28, 2011, and the exhibits annexed thereto; the accompanying memorandum of law, the Complaint, and the exhibits annexed thereto; the evidence adduced in Court on January 20, 2011, and upon all prior pleadings and proceedings had herein, it is hereby:

ORDERED, that Defendant Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine show cause before this Court, in the United States Court House, Courtroom12C, 500 Pearl Street, New York, New York, 10007 on either February 16, 2011 at 10 a.m., or as soon thereafter as counsel may be heard, or, the Court's schedule permitting, on February 8, 2011, or as soon thereafter as counsel may be heard, why an order should not be entered:

(a) pursuant to 15 U.S.C. § 1114 and Rules 64 and 65 of the Federal Rules of Civil Procedure, preliminarily enjoining the Defendant Dr. Jonathan B. Levine, D.M.D. P.C., its officers, directors, agents, servants, employees, representatives, attorneys, all persons or entities under its control or direction (including but not limited to GloSience LLC), and all persons or entities in active concert or participation with it who receive actual notice of this Order, from advertising, promoting, displaying, marketing, offering for sale, or selling any oral care teeth whitening product for at-home use bearing the

GLO Trademarks (as defined below), pending resolution of the case captioned *GO SMiLE, Inc. v. Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine* (Case No. 10 CIV 8663 (PKC));

(b) pursuant to 15 U.S.C. § 1114 and Rules 64 and 65 of the Federal Rules of Civil Procedure, preliminarily enjoining the Defendant Dr. Jonathan B. Levine, his agents, servants, employees, representatives, attorneys, all persons or entities under his control or direction (including but not limited to GloScience LLC), and all persons or entities in active concert or participation with him who receive actual notice of this Order, from advertising, promoting, displaying, marketing, offering for sale, or selling any oral care or teeth whitening product for at-home use bearing the GLO Trademarks (as defined below), pending resolution of the case captioned *GO SMiLE, Inc. v. Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine* (Case No. 10 CIV 8663 (PKC)); and

(c) providing for such other and further relief as the Court deems just and proper; and, sufficient reason having been shown, it is further

~~ORDERED, that pending hearing and determination of GO SMiLE's motion for a preliminary injunction, Defendants Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine, their officers, directors, agents, servants, employees, representatives, attorneys, all persons or entities under their control or direction (including but not limited to GloScience LLC), and all persons or entities in active concert or participation with them who receive actual notice of this Order, be and hereby are temporarily restrained and enjoined from advertising, promoting, displaying, marketing, offering for sale, or selling any oral care or teeth whitening product for at-home use bearing or using any of the following trademarks or trademarks confusingly similar thereto (which shall be referred to herein as the "GLO~~

PKC

Trademarks") in this matter pending the hearing and determination of plaintiff's motion for a preliminary injunction:

- GLO
- GLO Brilliant
- G.L.O.
- GLO | Brilliant
- GLO Whitening
- GLO Control
- Glo Science
- Glo Technology
- Glo Dock
- Glo Lipcare
- Smile Whitening System
- Smile Beauty.

and it is further;

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ORDERED, that security in the amount of $ ____________ be posted by or on behalf of GO SMiLE on or before ____________; and it is further

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ORDERED, that service of a copy of this Order, and the newly filed papers upon which is it based, upon counsel of record for Defendants Dr. Jonathan B. Levine, D.M.D. P.C. and Dr. Jonathan B. Levine by personal service or by Federal Express or other nationally recognized overnight courier by January 28, 2011 shall be deemed good and sufficient.

Dated: New York, New York
January 28, 2011

P. K. Castel

U.S.D.J.

The preliminary injunction hearing is in its early stage. I have heard the testimony of one witness and reviewed the moving and opposing papers previously submitted. At this juncture, the plaintiff has not yet shown a likelihood of success on the merits and, thus, the application for a temporary restraining order is DENIED. If HSN and defendant elect to proceed on February 1, 2011 with product launch, the Court retains sufficient authority to fashion a remedy (e.g. enjoining shipments) in the event I ultimately conclude that an injunction is warranted.